

SSB 6639 - H COMM AMD
By Committee on Ways & Means

NOT CONSIDERED 03/03/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Board" means the indeterminate sentence review board created
8 under chapter 9.95 RCW.

9 (2) "Collect," or any derivative thereof, "collect and remit," or
10 "collect and deliver," when used with reference to the department,
11 means that the department, either directly or through a collection
12 agreement authorized by RCW 9.94A.760, is responsible for monitoring
13 and enforcing the offender's sentence with regard to the legal
14 financial obligation, receiving payment thereof from the offender, and,
15 consistent with current law, delivering daily the entire payment to the
16 superior court clerk without depositing it in a departmental account.

17 (3) "Commission" means the sentencing guidelines commission.

18 (4) "Community corrections officer" means an employee of the
19 department who is responsible for carrying out specific duties in
20 supervision of sentenced offenders and monitoring of sentence
21 conditions.

22 (5) "Community custody" means that portion of an offender's
23 sentence of confinement in lieu of earned release time or imposed as
24 part of a sentence under this chapter and served in the community
25 subject to controls placed on the offender's movement and activities by
26 the department.

27 (6) "Community protection zone" means the area within eight hundred
28 eighty feet of the facilities and grounds of a public or private
29 school.

1 (7) "Community restitution" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender.

4 (8) "Confinement" means total or partial confinement.

5 (9) "Conviction" means an adjudication of guilt pursuant to Title
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
7 acceptance of a plea of guilty.

8 (10) "Crime-related prohibition" means an order of a court
9 prohibiting conduct that directly relates to the circumstances of the
10 crime for which the offender has been convicted, and shall not be
11 construed to mean orders directing an offender affirmatively to
12 participate in rehabilitative programs or to otherwise perform
13 affirmative conduct. However, affirmative acts necessary to monitor
14 compliance with the order of a court may be required by the department.

15 (11) "Criminal history" means the list of a defendant's prior
16 convictions and juvenile adjudications, whether in this state, in
17 federal court, or elsewhere.

18 (a) The history shall include, where known, for each conviction (i)
19 whether the defendant has been placed on probation and the length and
20 terms thereof; and (ii) whether the defendant has been incarcerated and
21 the length of incarceration.

22 (b) A conviction may be removed from a defendant's criminal history
23 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
24 a similar out-of-state statute, or if the conviction has been vacated
25 pursuant to a governor's pardon.

26 (c) The determination of a defendant's criminal history is distinct
27 from the determination of an offender score. A prior conviction that
28 was not included in an offender score calculated pursuant to a former
29 version of the sentencing reform act remains part of the defendant's
30 criminal history.

31 (12) "Criminal street gang" means any ongoing organization,
32 association, or group of three or more persons, whether formal or
33 informal, having a common name or common identifying sign or symbol,
34 having as one of its primary activities the commission of criminal
35 acts, and whose members or associates individually or collectively
36 engage in or have engaged in a pattern of criminal street gang
37 activity. This definition does not apply to employees engaged in

1 concerted activities for their mutual aid and protection, or to the
2 activities of labor and bona fide nonprofit organizations or their
3 members or agents.

4 (13) "Criminal street gang associate or member" means any person
5 who actively participates in any criminal street gang and who
6 intentionally promotes, furthers, or assists in any criminal act by the
7 criminal street gang.

8 (14) "Criminal street gang-related offense" means any felony or
9 misdemeanor offense, whether in this state or elsewhere, that is
10 committed for the benefit of, at the direction of, or in association
11 with any criminal street gang, or is committed with the intent to
12 promote, further, or assist in any criminal conduct by the gang, or is
13 committed for one or more of the following reasons:

14 (a) To gain admission, prestige, or promotion within the gang;

15 (b) To increase or maintain the gang's size, membership, prestige,
16 dominance, or control in any geographical area;

17 (c) To exact revenge or retribution for the gang or any member of
18 the gang;

19 (d) To obstruct justice, or intimidate or eliminate any witness
20 against the gang or any member of the gang;

21 (e) To directly or indirectly cause any benefit, aggrandizement,
22 gain, profit, or other advantage for the gang, its reputation,
23 influence, or membership; or

24 (f) To provide the gang with any advantage in, or any control or
25 dominance over any criminal market sector, including, but not limited
26 to, manufacturing, delivering, or selling any controlled substance
27 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
28 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
29 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
30 (chapter 9.68 RCW).

31 (15) "Day fine" means a fine imposed by the sentencing court that
32 equals the difference between the offender's net daily income and the
33 reasonable obligations that the offender has for the support of the
34 offender and any dependents.

35 (16) "Day reporting" means a program of enhanced supervision
36 designed to monitor the offender's daily activities and compliance with
37 sentence conditions, and in which the offender is required to report

1 daily to a specific location designated by the department or the
2 sentencing court.

3 (17) "Department" means the department of corrections.

4 (18) "Determinate sentence" means a sentence that states with
5 exactitude the number of actual years, months, or days of total
6 confinement, of partial confinement, of community custody, the number
7 of actual hours or days of community restitution work, or dollars or
8 terms of a legal financial obligation. The fact that an offender
9 through earned release can reduce the actual period of confinement
10 shall not affect the classification of the sentence as a determinate
11 sentence.

12 (19) "Disposable earnings" means that part of the earnings of an
13 offender remaining after the deduction from those earnings of any
14 amount required by law to be withheld. For the purposes of this
15 definition, "earnings" means compensation paid or payable for personal
16 services, whether denominated as wages, salary, commission, bonuses, or
17 otherwise, and, notwithstanding any other provision of law making the
18 payments exempt from garnishment, attachment, or other process to
19 satisfy a court-ordered legal financial obligation, specifically
20 includes periodic payments pursuant to pension or retirement programs,
21 or insurance policies of any type, but does not include payments made
22 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
23 or Title 74 RCW.

24 (20) "Drug offender sentencing alternative" is a sentencing option
25 available to persons convicted of a felony offense other than a violent
26 offense or a sex offense and who are eligible for the option under RCW
27 9.94A.660.

28 (21) "Drug offense" means:

29 (a) Any felony violation of chapter 69.50 RCW except possession of
30 a controlled substance (RCW 69.50.4013) or forged prescription for a
31 controlled substance (RCW 69.50.403);

32 (b) Any offense defined as a felony under federal law that relates
33 to the possession, manufacture, distribution, or transportation of a
34 controlled substance; or

35 (c) Any out-of-state conviction for an offense that under the laws
36 of this state would be a felony classified as a drug offense under (a)
37 of this subsection.

1 (22) "Earned release" means earned release from confinement as
2 provided in RCW 9.94A.728.

3 (23) "Escape" means:

4 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
5 first degree (RCW 9A.76.110), escape in the second degree (RCW
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
7 willful failure to return from work release (RCW 72.65.070), or willful
8 failure to be available for supervision by the department while in
9 community custody (RCW 72.09.310); or

10 (b) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as an escape
12 under (a) of this subsection.

13 (24) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
15 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
16 run injury-accident (RCW 46.52.020(4)), felony driving while under the
17 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
18 felony physical control of a vehicle while under the influence of
19 intoxicating liquor or any drug (RCW 46.61.504(6)); or

20 (b) Any federal or out-of-state conviction for an offense that
21 under the laws of this state would be a felony classified as a felony
22 traffic offense under (a) of this subsection.

23 (25) "Fine" means a specific sum of money ordered by the sentencing
24 court to be paid by the offender to the court over a specific period of
25 time.

26 (26) "First-time offender" means any person who has no prior
27 convictions for a felony and is eligible for the first-time offender
28 waiver under RCW 9.94A.650.

29 (27) "Home detention" means a program of partial confinement
30 available to offenders wherein the offender is confined in a private
31 residence subject to electronic surveillance.

32 (28) "Legal financial obligation" means a sum of money that is
33 ordered by a superior court of the state of Washington for legal
34 financial obligations which may include restitution to the victim,
35 statutorily imposed crime victims' compensation fees as assessed
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
37 court-appointed attorneys' fees, and costs of defense, fines, and any
38 other financial obligation that is assessed to the offender as a result

1 of a felony conviction. Upon conviction for vehicular assault while
2 under the influence of intoxicating liquor or any drug, RCW
3 46.61.522(1)(b), or vehicular homicide while under the influence of
4 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
5 obligations may also include payment to a public agency of the expense
6 of an emergency response to the incident resulting in the conviction,
7 subject to RCW 38.52.430.

8 (29) "Minor child" means a biological or adopted child of the
9 offender who is under age eighteen at the time of the offender's
10 current offense.

11 (30) "Most serious offense" means any of the following felonies or
12 a felony attempt to commit any of the following felonies:

13 (a) Any felony defined under any law as a class A felony or
14 criminal solicitation of or criminal conspiracy to commit a class A
15 felony;

16 (b) Assault in the second degree;

17 (c) Assault of a child in the second degree;

18 (d) Child molestation in the second degree;

19 (e) Controlled substance homicide;

20 (f) Extortion in the first degree;

21 (g) Incest when committed against a child under age fourteen;

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Robbery in the second degree;

30 (p) Sexual exploitation;

31 (q) Vehicular assault, when caused by the operation or driving of
32 a vehicle by a person while under the influence of intoxicating liquor
33 or any drug or by the operation or driving of a vehicle in a reckless
34 manner;

35 (r) Vehicular homicide, when proximately caused by the driving of
36 any vehicle by any person while under the influence of intoxicating
37 liquor or any drug as defined by RCW 46.61.502, or by the operation of
38 any vehicle in a reckless manner;

1 (s) Any other class B felony offense with a finding of sexual
2 motivation;

3 (t) Any other felony with a deadly weapon verdict under RCW
4 9.94A.825;

5 (u) Any felony offense in effect at any time prior to December 2,
6 1993, that is comparable to a most serious offense under this
7 subsection, or any federal or out-of-state conviction for an offense
8 that under the laws of this state would be a felony classified as a
9 most serious offense under this subsection;

10 (v)(i) A prior conviction for indecent liberties under RCW
11 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
12 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
13 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
14 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

15 (ii) A prior conviction for indecent liberties under RCW
16 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
17 if: (A) The crime was committed against a child under the age of
18 fourteen; or (B) the relationship between the victim and perpetrator is
19 included in the definition of indecent liberties under RCW
20 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
21 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
22 through July 27, 1997;

23 (w) Any out-of-state conviction for a felony offense with a finding
24 of sexual motivation if the minimum sentence imposed was ten years or
25 more; provided that the out-of-state felony offense must be comparable
26 to a felony offense under Title 9 or 9A RCW and the out-of-state
27 definition of sexual motivation must be comparable to the definition of
28 sexual motivation contained in this section.

29 ~~((+30+))~~ (31) "Nonviolent offense" means an offense which is not a
30 violent offense.

31 ~~((+31+))~~ (32) "Offender" means a person who has committed a felony
32 established by state law and is eighteen years of age or older or is
33 less than eighteen years of age but whose case is under superior court
34 jurisdiction under RCW 13.04.030 or has been transferred by the
35 appropriate juvenile court to a criminal court pursuant to RCW
36 13.40.110. In addition, for the purpose of community custody
37 requirements under this chapter, "offender" also means a misdemeanor or
38 gross misdemeanor probationer convicted of an offense included in RCW

1 9.94A.501(1) and ordered by a superior court to probation under the
2 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
3 9.95.210. Throughout this chapter, the terms "offender" and
4 "defendant" are used interchangeably.

5 ~~((+32+))~~ (33) "Partial confinement" means confinement for no more
6 than one year in a facility or institution operated or utilized under
7 contract by the state or any other unit of government, or, if home
8 detention or work crew has been ordered by the court or home detention
9 has been ordered by the department as part of the parenting program, in
10 an approved residence, for a substantial portion of each day with the
11 balance of the day spent in the community. Partial confinement
12 includes work release, home detention, work crew, and a combination of
13 work crew and home detention.

14 ~~((+33+))~~ (34) "Pattern of criminal street gang activity" means:

15 (a) The commission, attempt, conspiracy, or solicitation of, or any
16 prior juvenile adjudication of or adult conviction of, two or more of
17 the following criminal street gang-related offenses:

18 (i) Any "serious violent" felony offense as defined in this
19 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
20 Child 1 (RCW 9A.36.120);

21 (ii) Any "violent" offense as defined by this section, excluding
22 Assault of a Child 2 (RCW 9A.36.130);

23 (iii) Deliver or Possession with Intent to Deliver a Controlled
24 Substance (chapter 69.50 RCW);

25 (iv) Any violation of the firearms and dangerous weapon act
26 (chapter 9.41 RCW);

27 (v) Theft of a Firearm (RCW 9A.56.300);

28 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

29 (vii) Malicious Harassment (RCW 9A.36.080);

30 (viii) Harassment where a subsequent violation or deadly threat is
31 made (RCW 9A.46.020(2)(b));

32 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

33 (x) Any felony conviction by a person eighteen years of age or
34 older with a special finding of involving a juvenile in a felony
35 offense under RCW 9.94A.833;

36 (xi) Residential Burglary (RCW 9A.52.025);

37 (xii) Burglary 2 (RCW 9A.52.030);

38 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

1 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
2 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
3 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
4 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
5 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
6 9A.56.075);
7 (xix) Extortion 1 (RCW 9A.56.120);
8 (xx) Extortion 2 (RCW 9A.56.130);
9 (xxi) Intimidating a Witness (RCW 9A.72.110);
10 (xxii) Tampering with a Witness (RCW 9A.72.120);
11 (xxiii) Reckless Endangerment (RCW 9A.36.050);
12 (xxiv) Coercion (RCW 9A.36.070);
13 (xxv) Harassment (RCW 9A.46.020); or
14 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

15 (b) That at least one of the offenses listed in (a) of this
16 subsection shall have occurred after July 1, 2008;

17 (c) That the most recent committed offense listed in (a) of this
18 subsection occurred within three years of a prior offense listed in (a)
19 of this subsection; and

20 (d) Of the offenses that were committed in (a) of this subsection,
21 the offenses occurred on separate occasions or were committed by two or
22 more persons.

23 (~~(+34+)~~) (35) "Persistent offender" is an offender who:

24 (a)(i) Has been convicted in this state of any felony considered a
25 most serious offense; and

26 (ii) Has, before the commission of the offense under (a) of this
27 subsection, been convicted as an offender on at least two separate
28 occasions, whether in this state or elsewhere, of felonies that under
29 the laws of this state would be considered most serious offenses and
30 would be included in the offender score under RCW 9.94A.525; provided
31 that of the two or more previous convictions, at least one conviction
32 must have occurred before the commission of any of the other most
33 serious offenses for which the offender was previously convicted; or

34 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
35 of a child in the first degree, child molestation in the first degree,
36 rape in the second degree, rape of a child in the second degree, or
37 indecent liberties by forcible compulsion; (B) any of the following
38 offenses with a finding of sexual motivation: Murder in the first

1 degree, murder in the second degree, homicide by abuse, kidnapping in
2 the first degree, kidnapping in the second degree, assault in the first
3 degree, assault in the second degree, assault of a child in the first
4 degree, assault of a child in the second degree, or burglary in the
5 first degree; or (C) an attempt to commit any crime listed in this
6 subsection (~~(+34+)~~) (35)(b)(i); and

7 (ii) Has, before the commission of the offense under (b)(i) of this
8 subsection, been convicted as an offender on at least one occasion,
9 whether in this state or elsewhere, of an offense listed in (b)(i) of
10 this subsection or any federal or out-of-state offense or offense under
11 prior Washington law that is comparable to the offenses listed in
12 (b)(i) of this subsection. A conviction for rape of a child in the
13 first degree constitutes a conviction under (b)(i) of this subsection
14 only when the offender was sixteen years of age or older when the
15 offender committed the offense. A conviction for rape of a child in
16 the second degree constitutes a conviction under (b)(i) of this
17 subsection only when the offender was eighteen years of age or older
18 when the offender committed the offense.

19 (~~(+35+)~~) (36) "Predatory" means: (a) The perpetrator of the crime
20 was a stranger to the victim, as defined in this section; (b) the
21 perpetrator established or promoted a relationship with the victim
22 prior to the offense and the victimization of the victim was a
23 significant reason the perpetrator established or promoted the
24 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
25 volunteer, or other person in authority in any public or private school
26 and the victim was a student of the school under his or her authority
27 or supervision. For purposes of this subsection, "school" does not
28 include home-based instruction as defined in RCW 28A.225.010; (ii) a
29 coach, trainer, volunteer, or other person in authority in any
30 recreational activity and the victim was a participant in the activity
31 under his or her authority or supervision; or (iii) a pastor, elder,
32 volunteer, or other person in authority in any church or religious
33 organization, and the victim was a member or participant of the
34 organization under his or her authority.

35 (~~(+36+)~~) (37) "Private school" means a school regulated under
36 chapter 28A.195 or 28A.205 RCW.

37 (~~(+37+)~~) (38) "Public school" has the same meaning as in RCW
38 28A.150.010.

1 (~~(38)~~) (39) "Restitution" means a specific sum of money ordered
2 by the sentencing court to be paid by the offender to the court over a
3 specified period of time as payment of damages. The sum may include
4 both public and private costs.

5 (~~(39)~~) (40) "Risk assessment" means the application of the risk
6 instrument recommended to the department by the Washington state
7 institute for public policy as having the highest degree of predictive
8 accuracy for assessing an offender's risk of reoffense.

9 (~~(40)~~) (41) "Serious traffic offense" means:

10 (a) Nonfelony driving while under the influence of intoxicating
11 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
12 while under the influence of intoxicating liquor or any drug (RCW
13 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
14 attended vehicle (RCW 46.52.020(5)); or

15 (b) Any federal, out-of-state, county, or municipal conviction for
16 an offense that under the laws of this state would be classified as a
17 serious traffic offense under (a) of this subsection.

18 (~~(41)~~) (42) "Serious violent offense" is a subcategory of violent
19 offense and means:

20 (a)(i) Murder in the first degree;

21 (ii) Homicide by abuse;

22 (iii) Murder in the second degree;

23 (iv) Manslaughter in the first degree;

24 (v) Assault in the first degree;

25 (vi) Kidnapping in the first degree;

26 (vii) Rape in the first degree;

27 (viii) Assault of a child in the first degree; or

28 (ix) An attempt, criminal solicitation, or criminal conspiracy to
29 commit one of these felonies; or

30 (b) Any federal or out-of-state conviction for an offense that
31 under the laws of this state would be a felony classified as a serious
32 violent offense under (a) of this subsection.

33 (~~(42)~~) (43) "Sex offense" means:

34 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
35 RCW 9A.44.130(12);

36 (ii) A violation of RCW 9A.64.020;

37 (iii) A felony that is a violation of chapter 9.68A RCW other than
38 RCW 9.68A.080; or

1 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
2 criminal solicitation, or criminal conspiracy to commit such crimes;

3 (b) Any conviction for a felony offense in effect at any time prior
4 to July 1, 1976, that is comparable to a felony classified as a sex
5 offense in (a) of this subsection;

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.835 or 13.40.135; or

8 (d) Any federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony classified as a sex
10 offense under (a) of this subsection.

11 (~~(43)~~) (44) "Sexual motivation" means that one of the purposes
12 for which the defendant committed the crime was for the purpose of his
13 or her sexual gratification.

14 (~~(44)~~) (45) "Standard sentence range" means the sentencing
15 court's discretionary range in imposing a nonappealable sentence.

16 (~~(45)~~) (46) "Statutory maximum sentence" means the maximum length
17 of time for which an offender may be confined as punishment for a crime
18 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
19 the crime, or other statute defining the maximum penalty for a crime.

20 (~~(46)~~) (47) "Stranger" means that the victim did not know the
21 offender twenty-four hours before the offense.

22 (~~(47)~~) (48) "Total confinement" means confinement inside the
23 physical boundaries of a facility or institution operated or utilized
24 under contract by the state or any other unit of government for twenty-
25 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

26 (~~(48)~~) (49) "Transition training" means written and verbal
27 instructions and assistance provided by the department to the offender
28 during the two weeks prior to the offender's successful completion of
29 the work ethic camp program. The transition training shall include
30 instructions in the offender's requirements and obligations during the
31 offender's period of community custody.

32 (~~(49)~~) (50) "Victim" means any person who has sustained
33 emotional, psychological, physical, or financial injury to person or
34 property as a direct result of the crime charged.

35 (~~(50)~~) (51) "Violent offense" means:

36 (a) Any of the following felonies:

37 (i) Any felony defined under any law as a class A felony or an
38 attempt to commit a class A felony;

1 (ii) Criminal solicitation of or criminal conspiracy to commit a
2 class A felony;

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

5 (v) Indecent liberties if committed by forcible compulsion;

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

9 (ix) Assault of a child in the second degree;

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

17 (xiv) Vehicular homicide, when proximately caused by the driving of
18 any vehicle by any person while under the influence of intoxicating
19 liquor or any drug as defined by RCW 46.61.502, or by the operation of
20 any vehicle in a reckless manner;

21 (b) Any conviction for a felony offense in effect at any time prior
22 to July 1, 1976, that is comparable to a felony classified as a violent
23 offense in (a) of this subsection; and

24 (c) Any federal or out-of-state conviction for an offense that
25 under the laws of this state would be a felony classified as a violent
26 offense under (a) or (b) of this subsection.

27 ((+51+)) (52) "Work crew" means a program of partial confinement
28 consisting of civic improvement tasks for the benefit of the community
29 that complies with RCW 9.94A.725.

30 ((+52+)) (53) "Work ethic camp" means an alternative incarceration
31 program as provided in RCW 9.94A.690 designed to reduce recidivism and
32 lower the cost of corrections by requiring offenders to complete a
33 comprehensive array of real-world job and vocational experiences,
34 character-building work ethics training, life management skills
35 development, substance abuse rehabilitation, counseling, literacy
36 training, and basic adult education.

37 ((+53+)) (54) "Work release" means a program of partial confinement

1 available to offenders who are employed or engaged as a student in a
2 regular course of study at school.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
4 to read as follows:

5 (1) An offender is eligible for the parenting sentencing
6 alternative if:

7 (a) The high end of the standard sentence range for the current
8 offense is greater than one year;

9 (b) The offender has no prior or current conviction for a felony
10 that is a sex offense or a violent offense;

11 (c) The offender has not been found by the United States attorney
12 general to be subject to a deportation detainer or order and does not
13 become subject to a deportation order during the period of the
14 sentence;

15 (d) The offender signs any release of information waivers required
16 to allow information regarding current or prior child welfare cases to
17 be shared with the department and the court; and

18 (e) The offender has physical custody of his or her minor child or
19 is a legal guardian or custodian with physical custody of a child under
20 the age of eighteen at the time of the current offense.

21 (2) To assist the court in making its determination, the court may
22 order the department to complete either a risk assessment report or a
23 chemical dependency screening report as provided in RCW 9.94A.500, or
24 both reports prior to sentencing.

25 (3) If the court is considering this alternative, the court shall
26 request that the department contact the children's administration of
27 the Washington state department of social and health services to
28 determine if the agency has an open child welfare case or prior
29 substantiated referral of abuse or neglect involving the offender or if
30 the agency is aware of any substantiated case of abuse or neglect with
31 a tribal child welfare agency involving the offender.

32 (a) If the offender has an open child welfare case, the department
33 will provide the release of information waiver and request that the
34 children's administration or the tribal child welfare agency provide a
35 report to the court. The children's administration shall provide a
36 report within seven business days of the request that includes, at the
37 minimum, the following:

1 (i) Legal status of the child welfare case;
2 (ii) Length of time the children's administration has been involved
3 with the offender;
4 (iii) Legal status of the case and permanent plan;
5 (iv) Any special needs of the child;
6 (v) Whether or not the offender has been cooperative with services
7 ordered by a juvenile court under a child welfare case; and
8 (vi) If the offender has been convicted of a crime against a child.
9 (b) If a report is required from a tribal child welfare agency, the
10 department shall attempt to obtain information that is similar to what
11 is required for the report provided by the children's administration in
12 a timely manner.
13 (c) If the offender does not have an open child welfare case with
14 the children's administration or with a tribal child welfare agency but
15 has prior involvement, the department will obtain information from the
16 children's administration on the number and type of past substantiated
17 referrals of abuse or neglect and report that information to the court.
18 If the children's administration has never had any substantiated
19 referrals or an open case with the offender, the department will inform
20 the court.
21 (4) If the sentencing court determines that the offender is
22 eligible for a sentencing alternative under this section and that the
23 sentencing alternative is appropriate and should be imposed, the court
24 shall waive imposition of a sentence within the standard sentence range
25 and impose a sentence consisting of twelve months of community custody.
26 The court shall consider the offender's criminal history when
27 determining if the alternative is appropriate.
28 (5) When a court imposes a sentence of community custody under this
29 section:
30 (a) The court may impose conditions as provided in RCW 9.94A.703
31 and may impose other affirmative conditions as the court considers
32 appropriate.
33 (b) The department may impose conditions as authorized in RCW
34 9.94A.704 that may include, but are not limited to:
35 (i) Parenting classes;
36 (ii) Chemical dependency treatment;
37 (iii) Mental health treatment;
38 (iv) Vocational training;

1 (v) Offender change programs;

2 (vi) Life skills classes.

3 (c) The department shall report to the court if the offender
4 commits any violations of his or her sentence conditions.

5 (6) The department shall provide the court with quarterly progress
6 reports regarding the offender's progress in required programming,
7 treatment, and other supervision conditions. When an offender has an
8 open child welfare case, the department will seek to coordinate
9 services with the children's administration.

10 (7)(a) The court may bring any offender sentenced under this
11 section back into court at any time during the period of community
12 custody on its own initiative to evaluate the offender's progress in
13 treatment, or to determine if any violations of the conditions of the
14 sentence have occurred.

15 (b) If the offender is brought back to court, the court may modify
16 the conditions of community custody or impose sanctions under (c) of
17 this subsection.

18 (c) The court may order the offender to serve a term of total
19 confinement within the standard range of the offender's current offense
20 at any time during the period of community custody, if the offender
21 violates the conditions or requirements of the sentence or if the
22 offender is failing to make satisfactory progress in treatment.

23 (d) An offender ordered to serve a term of total confinement under
24 (c) of this subsection shall receive credit for any time previously
25 served in confinement under this section.

26 **Sec. 3.** RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read
27 as follows:

28 (1) The department shall supervise every offender convicted of a
29 misdemeanor or gross misdemeanor offense who is sentenced to probation
30 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for
31 an offense included in (a) and (b) of this subsection. The superior
32 court shall order probation for:

33 (a) Offenders convicted of fourth degree assault, violation of a
34 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,
35 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,
36 and who also have a prior conviction for one or more of the following:

37 (i) A violent offense;

- 1 (ii) A sex offense;
2 (iii) A crime against a person as provided in RCW 9.94A.411;
3 (iv) Fourth degree assault; or
4 (v) Violation of a domestic violence court order; and
5 (b) Offenders convicted of:
6 (i) Sexual misconduct with a minor second degree;
7 (ii) Custodial sexual misconduct second degree;
8 (iii) Communication with a minor for immoral purposes; and
9 (iv) Failure to register pursuant to RCW 9A.44.130.

10 (2) Misdemeanor and gross misdemeanor offenders supervised by the
11 department pursuant to this section shall be placed on community
12 custody.

13 (3) The department shall supervise every felony offender sentenced
14 to community custody whose risk assessment, conducted pursuant to
15 subsection (6) of this section, classifies the offender as one who is
16 at a high risk to reoffend.

17 (4) Notwithstanding any other provision of this section, the
18 department shall supervise an offender sentenced to community custody
19 regardless of risk classification if the offender:

20 (a) Has a current conviction for a sex offense or a serious violent
21 offense as defined in RCW 9.94A.030;

22 (b) Has been identified by the department as a dangerous mentally
23 ill offender pursuant to RCW 72.09.370;

24 (c) Has an indeterminate sentence and is subject to parole pursuant
25 to RCW 9.95.017;

26 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this
27 act, or 9.94A.670; or

28 (e) Is subject to supervision pursuant to RCW 9.94A.745.

29 (5) The department is not authorized to, and may not, supervise any
30 offender sentenced to a term of community custody or any probationer
31 unless the offender or probationer is one for whom supervision is
32 required under subsection (1), (2), (3), or (4) of this section.

33 (6) The department shall conduct a risk assessment for every felony
34 offender sentenced to a term of community custody who may be subject to
35 supervision under this section.

36 **Sec. 4.** RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read
37 as follows:

1 (1) When a person is convicted of a felony, the court shall impose
2 punishment as provided in this chapter.

3 (2)(a) The court shall impose a sentence as provided in the
4 following sections and as applicable in the case:

5 (i) Unless another term of confinement applies, a sentence within
6 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

7 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

8 (iii) RCW 9.94A.570, relating to persistent offenders;

9 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

10 (v) RCW 9.94A.650, relating to the first-time offender waiver;

11 (vi) RCW 9.94A.660, relating to the drug offender sentencing
12 alternative;

13 (vii) RCW 9.94A.670, relating to the special sex offender
14 sentencing alternative;

15 (viii) Section 2 of this act, relating to the parenting sentencing
16 alternative;

17 (ix) RCW 9.94A.507, relating to certain sex offenses;

18 ~~((ix))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

19 ~~((x))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent
20 sentences;

21 ~~((xi))~~ (xii) RCW 9.94A.603, relating to felony driving while
22 under the influence of intoxicating liquor or any drug and felony
23 physical control of a vehicle while under the influence of intoxicating
24 liquor or any drug.

25 (b) If a standard sentence range has not been established for the
26 offender's crime, the court shall impose a determinate sentence which
27 may include not more than one year of confinement; community
28 restitution work; a term of community custody under RCW 9.94A.702 not
29 to exceed one year; and/or other legal financial obligations. The
30 court may impose a sentence which provides more than one year of
31 confinement and a community custody term under RCW 9.94A.701 if the
32 court finds reasons justifying an exceptional sentence as provided in
33 RCW 9.94A.535.

34 (3) If the court imposes a sentence requiring confinement of thirty
35 days or less, the court may, in its discretion, specify that the
36 sentence be served on consecutive or intermittent days. A sentence
37 requiring more than thirty days of confinement shall be served on

1 consecutive days. Local jail administrators may schedule court-ordered
2 intermittent sentences as space permits.

3 (4) If a sentence imposed includes payment of a legal financial
4 obligation, it shall be imposed as provided in RCW 9.94A.750,
5 9.94A.753, 9.94A.760, and 43.43.7541.

6 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
7 court may not impose a sentence providing for a term of confinement or
8 community custody that exceeds the statutory maximum for the crime as
9 provided in chapter 9A.20 RCW.

10 (6) The sentencing court shall give the offender credit for all
11 confinement time served before the sentencing if that confinement was
12 solely in regard to the offense for which the offender is being
13 sentenced.

14 (7) The court shall order restitution as provided in RCW 9.94A.750
15 and 9.94A.753.

16 (8) As a part of any sentence, the court may impose and enforce
17 crime-related prohibitions and affirmative conditions as provided in
18 this chapter.

19 (9) In any sentence of partial confinement, the court may require
20 the offender to serve the partial confinement in work release, in a
21 program of home detention, on work crew, or in a combined program of
22 work crew and home detention.

23 **Sec. 5.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read
24 as follows:

25 (1) If an offender is sentenced to the custody of the department
26 for one of the following crimes, the court shall, in addition to the
27 other terms of the sentence, sentence the offender to community custody
28 for three years:

29 (a) A sex offense not sentenced under RCW 9.94A.507;

30 (b) A serious violent offense; or

31 (c) A violation of RCW 9A.44.130(11)(a) committed on or after June
32 7, 2006, when a court sentences the person to a term of confinement of
33 one year or less.

34 (2) A court shall, in addition to the other terms of the sentence,
35 sentence an offender to community custody for eighteen months when the
36 court sentences the person to the custody of the department for a
37 violent offense that is not considered a serious violent offense.

1 (3) A court shall, in addition to the other terms of the sentence,
2 sentence an offender to community custody for one year when the court
3 sentences the person to the custody of the department for:

4 (a) Any crime against persons under RCW 9.94A.411(2);

5 (b) An offense involving the unlawful possession of a firearm under
6 RCW 9.41.040, where the offender is a criminal street gang member or
7 associate; or

8 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed on
9 or after July 1, 2000.

10 (4) If an offender is sentenced under the drug offender sentencing
11 alternative, the court shall impose community custody as provided in
12 RCW 9.94A.660.

13 (5) If an offender is sentenced under the special (~~(sexual-[sex])~~)
14 sex offender sentencing alternative, the court shall impose community
15 custody as provided in RCW 9.94A.670.

16 (6) If an offender is sentenced to a work ethic camp, the court
17 shall impose community custody as provided in RCW 9.94A.690.

18 (7) If an offender is sentenced under the parenting sentencing
19 alternative, the court shall impose a term of community custody as
20 provided in section 2 of this act.

21 (8) If a sex offender is sentenced as a nonpersistent offender
22 pursuant to RCW 9.94A.507, the court shall impose community custody as
23 provided in that section.

24 ~~((+8))~~ (9) The term of community custody specified by this section
25 shall be reduced by the court whenever an offender's standard range
26 term of confinement in combination with the term of community custody
27 exceeds the statutory maximum for the crime as provided in RCW
28 9A.20.021.

29 **Sec. 6.** RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009
30 c 399 s 1 are each reenacted and amended to read as follows:

31 No person serving a sentence imposed pursuant to this chapter and
32 committed to the custody of the department shall leave the confines of
33 the correctional facility or be released prior to the expiration of the
34 sentence except as follows:

35 (1) An offender may earn early release time as authorized by RCW
36 9.94A.729;

1 (2) An offender may leave a correctional facility pursuant to an
2 authorized furlough or leave of absence. In addition, offenders may
3 leave a correctional facility when in the custody of a corrections
4 officer or officers;

5 (3)(a) The secretary may authorize an extraordinary medical
6 placement for an offender when all of the following conditions exist:

7 (i) The offender has a medical condition that is serious and is
8 expected to require costly care or treatment;

9 (ii) The offender poses a low risk to the community because he or
10 she is currently physically incapacitated due to age or the medical
11 condition or is expected to be so at the time of release; and

12 (iii) It is expected that granting the extraordinary medical
13 placement will result in a cost savings to the state.

14 (b) An offender sentenced to death or to life imprisonment without
15 the possibility of release or parole is not eligible for an
16 extraordinary medical placement.

17 (c) The secretary shall require electronic monitoring for all
18 offenders in extraordinary medical placement unless the electronic
19 monitoring equipment interferes with the function of the offender's
20 medical equipment or results in the loss of funding for the offender's
21 medical care, in which case, an alternative type of monitoring shall be
22 utilized. The secretary shall specify who shall provide the monitoring
23 services and the terms under which the monitoring shall be performed.

24 (d) The secretary may revoke an extraordinary medical placement
25 under this subsection at any time.

26 (e) Persistent offenders are not eligible for extraordinary medical
27 placement;

28 (4) The governor, upon recommendation from the clemency and pardons
29 board, may grant an extraordinary release for reasons of serious health
30 problems, senility, advanced age, extraordinary meritorious acts, or
31 other extraordinary circumstances;

32 (5) No more than the final six months of the offender's term of
33 confinement may be served in partial confinement designed to aid the
34 offender in finding work and reestablishing himself or herself in the
35 community or no more than the final twelve months of the offender's
36 term of confinement may be served in partial confinement as part of the
37 parenting program in section 8 of this act. This is in addition to

1 that period of earned early release time that may be exchanged for
2 partial confinement pursuant to RCW 9.94A.729(5)(d);

3 (6) The governor may pardon any offender;

4 (7) The department may release an offender from confinement any
5 time within ten days before a release date calculated under this
6 section;

7 (8) An offender may leave a correctional facility prior to
8 completion of his or her sentence if the sentence has been reduced as
9 provided in RCW 9.94A.870; and

10 (9) Notwithstanding any other provisions of this section, an
11 offender sentenced for a felony crime listed in RCW 9.94A.540 as
12 subject to a mandatory minimum sentence of total confinement shall not
13 be released from total confinement before the completion of the listed
14 mandatory minimum sentence for that felony crime of conviction unless
15 allowed under RCW 9.94A.540.

16 **Sec. 7.** RCW 9.94A.729 and 2009 c 455 s 3 are each amended to read
17 as follows:

18 (1)(a) The term of the sentence of an offender committed to a
19 correctional facility operated by the department may be reduced by
20 earned release time in accordance with procedures that shall be
21 developed and adopted by the correctional agency having jurisdiction in
22 which the offender is confined. The earned release time shall be for
23 good behavior and good performance, as determined by the correctional
24 agency having jurisdiction. The correctional agency shall not credit
25 the offender with earned release credits in advance of the offender
26 actually earning the credits.

27 (b) Any program established pursuant to this section shall allow
28 an offender to earn early release credits for presentence
29 incarceration. If an offender is transferred from a county jail to the
30 department, the administrator of a county jail facility shall certify
31 to the department the amount of time spent in custody at the facility
32 and the amount of earned release time. The department may approve a
33 jail certification from a correctional agency that calculates earned
34 release time based on the actual amount of confinement time served by
35 the offender before sentencing when an erroneous calculation of
36 confinement time served by the offender before sentencing appears on
37 the judgment and sentence.

1 (2) An offender who has been convicted of a felony committed after
2 July 23, 1995, that involves any applicable deadly weapon enhancements
3 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good
4 time credits or earned release time for that portion of his or her
5 sentence that results from any deadly weapon enhancements.

6 (3) An offender may earn early release time as follows:

7 (a) In the case of an offender convicted of a serious violent
8 offense, or a sex offense that is a class A felony, committed on or
9 after July 1, 1990, and before July 1, 2003, the aggregate earned
10 release time may not exceed fifteen percent of the sentence.

11 (b) In the case of an offender convicted of a serious violent
12 offense, or a sex offense that is a class A felony, committed on or
13 after July 1, 2003, the aggregate earned release time may not exceed
14 ten percent of the sentence.

15 (c) An offender is qualified to earn up to fifty percent of
16 aggregate earned release time if he or she:

17 (i) Is not classified as an offender who is at a high risk to
18 reoffend as provided in subsection (4) of this section;

19 (ii) Is not confined pursuant to a sentence for:

20 (A) A sex offense;

21 (B) A violent offense;

22 (C) A crime against persons as defined in RCW 9.94A.411;

23 (D) A felony that is domestic violence as defined in RCW 10.99.020;

24 (E) A violation of RCW 9A.52.025 (residential burglary);

25 (F) A violation of, or an attempt, solicitation, or conspiracy to
26 violate, RCW 69.50.401 by manufacture or delivery or possession with
27 intent to deliver methamphetamine; or

28 (G) A violation of, or an attempt, solicitation, or conspiracy to
29 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

30 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
31 this subsection;

32 (iv) Participates in programming or activities as directed by the
33 offender's individual reentry plan as provided under RCW 72.09.270 to
34 the extent that such programming or activities are made available by
35 the department; and

36 (v) Has not committed a new felony after July 22, 2007, while under
37 community custody.

1 (d) In no other case shall the aggregate earned release time exceed
2 one-third of the total sentence.

3 (4) The department shall perform a risk assessment of each offender
4 who may qualify for earned early release under subsection (3)(c) of
5 this section utilizing the risk assessment tool recommended by the
6 Washington state institute for public policy. Subsection (3)(c) of
7 this section does not apply to offenders convicted after July 1, 2010.

8 (5)(a) A person who is eligible for earned early release as
9 provided in this section and who is convicted of a sex offense, a
10 violent offense, any crime against persons under RCW 9.94A.411(2), or
11 a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred
12 to community custody in lieu of earned release time;

13 (b) The department shall, as a part of its program for release to
14 the community in lieu of earned release, require the offender to
15 propose a release plan that includes an approved residence and living
16 arrangement. All offenders with community custody terms eligible for
17 release to community custody in lieu of earned release shall provide an
18 approved residence and living arrangement prior to release to the
19 community;

20 (c) The department may deny transfer to community custody in lieu
21 of earned release time if the department determines an offender's
22 release plan, including proposed residence location and living
23 arrangements, may violate the conditions of the sentence or conditions
24 of supervision, place the offender at risk to violate the conditions of
25 the sentence, place the offender at risk to reoffend, or present a risk
26 to victim safety or community safety. The department's authority under
27 this section is independent of any court-ordered condition of sentence
28 or statutory provision regarding conditions for community custody;

29 (d) If the department is unable to approve the offender's release
30 plan, the department may do one or more of the following:

31 (i) Transfer an offender to partial confinement in lieu of earned
32 early release for a period not to exceed three months. The three
33 months in partial confinement is in addition to that portion of the
34 offender's term of confinement that may be served in partial
35 confinement as provided in RCW 9.94A.728(5);

36 (ii) Provide rental vouchers to the offender for a period not to
37 exceed three months if rental assistance will result in an approved
38 release plan. The voucher must be provided in conjunction with

1 additional transition support programming or services that enable an
2 offender to participate in services including, but not limited to,
3 substance abuse treatment, mental health treatment, sex offender
4 treatment, educational programming, or employment programming;

5 (e) For each offender who is the recipient of a rental voucher, the
6 department shall include, concurrent with the data that the department
7 otherwise obtains and records, the housing status of the offender for
8 the duration of the offender's supervision.

9 (6) An offender serving a term of confinement imposed under RCW
10 9.94A.670(5)(a) is not eligible for earned release credits under this
11 section.

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW
13 to read as follows:

14 For offenders not sentenced under section 2 of this act, but
15 otherwise eligible under this section, no more than the final twelve
16 months of the offender's term of confinement may be served in partial
17 confinement as home detention as part of the parenting program
18 developed by the department.

19 (1) The secretary may transfer an offender from a correctional
20 facility to home detention in the community if it is determined that
21 the parenting program is an appropriate placement and when all of the
22 following conditions exist:

23 (a) The offender is serving a sentence in which the high end of the
24 range is greater than one year;

25 (b) The offender has no current conviction for a felony that is a
26 sex offense or a violent offense;

27 (c) The offender has not been found by the United States attorney
28 general to be subject to a deportation detainer or order and does not
29 become subject to a deportation order during the period of the
30 sentence;

31 (d) The offender signs any release of information waivers required
32 to allow information regarding current or prior child welfare cases to
33 be shared with the department and the court;

34 (e) The offender:

35 (i) Has physical or legal custody of a minor child;

36 (ii) Has a proven, established, ongoing, and substantial

1 relationship with his or her minor child that existed prior to the
2 commission of the current offense; or

3 (iii) Is a legal guardian of a child that was under the age of
4 eighteen at the time of the current offense; and

5 (f) The department determines that such a placement is in the best
6 interests of the child.

7 (2) When the department is considering partial confinement as part
8 of the parenting program for an offender, the department shall inquire
9 of the individual and the children's administration with the Washington
10 state department of social and health services whether the agency has
11 an open child welfare case or prior substantiated referral for abuse or
12 neglect involving the offender. If the children's administration or a
13 tribal jurisdiction has an open child welfare case, the department will
14 seek input from the children's administration or the involved tribal
15 jurisdiction as to: (a) The status of the child welfare case; and (b)
16 recommendations regarding placement of the offender and services
17 required of the department and the court governing the individual's
18 child welfare case. The department and its officers, agents, and
19 employees are not liable for the acts of offenders participating in the
20 parenting program unless the department or its officers, agents, and
21 employees acted with willful and wanton disregard.

22 (3) All offenders placed on home detention as part of the parenting
23 program shall provide an approved residence and living arrangement
24 prior to transfer to home detention.

25 (4) While in the community on home detention as part of the
26 parenting program, the department shall:

27 (a) Require the offender to be placed on electronic home
28 monitoring;

29 (b) Require the offender to participate in programming and
30 treatment that the department determines is needed;

31 (c) Assign a community corrections officer who will monitor the
32 offender's compliance with conditions of partial confinement and
33 programming requirements; and

34 (d) If the offender has an open child welfare case with the
35 children's administration, collaborate and communicate with the
36 identified social worker in the provision of services.

37 (5) The department has the authority to return any offender serving

1 partial confinement in the parenting program to total confinement if
2 the offender is not complying with sentence requirements.

3 **Sec. 9.** RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read
4 as follows:

5 (1) Home detention may not be imposed for offenders convicted of
6 the following offenses, unless imposed as partial confinement in the
7 department's parenting program under section 8 of this act:

8 (a) A violent offense;

9 (b) Any sex offense;

10 (c) Any drug offense;

11 (d) Reckless burning in the first or second degree as defined in
12 RCW 9A.48.040 or 9A.48.050;

13 (e) Assault in the third degree as defined in RCW 9A.36.031;

14 (f) Assault of a child in the third degree;

15 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

16 (h) Harassment as defined in RCW 9A.46.020.

17 Home detention may be imposed for offenders convicted of possession of
18 a controlled substance under RCW 69.50.4013 or forged prescription for
19 a controlled substance under RCW 69.50.403 if the offender fulfills the
20 participation conditions set forth in this section and is monitored for
21 drug use by a treatment alternatives to street crime program or a
22 comparable court or agency-referred program.

23 (2) Home detention may be imposed for offenders convicted of
24 burglary in the second degree as defined in RCW 9A.52.030 or
25 residential burglary conditioned upon the offender:

26 (a) Successfully completing twenty-one days in a work release
27 program;

28 (b) Having no convictions for burglary in the second degree or
29 residential burglary during the preceding two years and not more than
30 two prior convictions for burglary or residential burglary;

31 (c) Having no convictions for a violent felony offense during the
32 preceding two years and not more than two prior convictions for a
33 violent felony offense;

34 (d) Having no prior charges of escape; and

35 (e) Fulfilling the other conditions of the home detention program.

36 (3) Home detention may be imposed for offenders convicted of taking
37 a motor vehicle without permission in the second degree as defined in

1 RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065,
2 or possession of a stolen motor vehicle as defined under RCW 9A.56.068
3 conditioned upon the offender:

4 (a) Having no convictions for taking a motor vehicle without
5 permission, theft of a motor vehicle or possession of a stolen motor
6 vehicle during the preceding five years and not more than two prior
7 convictions for taking a motor vehicle without permission, theft of a
8 motor vehicle or possession of a stolen motor vehicle;

9 (b) Having no convictions for a violent felony offense during the
10 preceding two years and not more than two prior convictions for a
11 violent felony offense;

12 (c) Having no prior charges of escape; and

13 (d) Fulfilling the other conditions of the home detention program.

14 (4) Participation in a home detention program shall be conditioned
15 upon:

16 (a) The offender obtaining or maintaining current employment or
17 attending a regular course of school study at regularly defined hours,
18 or the offender performing parental duties to offspring or minors
19 normally in the custody of the offender;

20 (b) Abiding by the rules of the home detention program; and

21 (c) Compliance with court-ordered legal financial obligations. The
22 home detention program may also be made available to offenders whose
23 charges and convictions do not otherwise disqualify them if medical or
24 health-related conditions, concerns or treatment would be better
25 addressed under the home detention program, or where the health and
26 welfare of the offender, other inmates, or staff would be jeopardized
27 by the offender's incarceration. Participation in the home detention
28 program for medical or health-related reasons is conditioned on the
29 offender abiding by the rules of the home detention program and
30 complying with court-ordered restitution.

31 **Sec. 10.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read
32 as follows:

33 (1) A sentence that includes a term or terms of confinement
34 totaling more than one year shall be served in a facility or
35 institution operated, or utilized under contract, by the state, or in
36 home detention pursuant to section 8 of this act. Except as provided
37 in subsection (3) or (5) of this section, a sentence of not more than

1 one year of confinement shall be served in a facility operated,
2 licensed, or utilized under contract, by the county, or if home
3 detention or work crew has been ordered by the court, in the residence
4 of either the offender or a member of the offender's immediate family.

5 (2) If a county uses a state partial confinement facility for the
6 partial confinement of a person sentenced to confinement for not more
7 than one year, the county shall reimburse the state for the use of the
8 facility as provided in this subsection. The office of financial
9 management shall set the rate of reimbursement based upon the average
10 per diem cost per offender in the facility. The office of financial
11 management shall determine to what extent, if any, reimbursement shall
12 be reduced or eliminated because of funds provided by the legislature
13 to the department for the purpose of covering the cost of county use of
14 state partial confinement facilities. The office of financial
15 management shall reestablish reimbursement rates each even-numbered
16 year.

17 (3) A person who is sentenced for a felony to a term of not more
18 than one year, and who is committed or returned to incarceration in a
19 state facility on another felony conviction, either under the
20 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter
21 shall serve all terms of confinement, including a sentence of not more
22 than one year, in a facility or institution operated, or utilized under
23 contract, by the state, consistent with the provisions of RCW
24 9.94A.589.

25 (4) Notwithstanding any other provision of this section, a sentence
26 imposed pursuant to RCW 9.94A.660 which has a standard sentence range
27 of over one year, regardless of length, shall be served in a facility
28 or institution operated, or utilized under contract, by the state.

29 (5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in
30 a facility or institution operated, or utilized under contract, by the
31 state.

32 **Sec. 11.** RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to
33 read as follows:

34 The procedure for imposing sanctions for violations of sentence
35 conditions or requirements is as follows:

36 (1) If the offender was sentenced under the drug offender

1 sentencing alternative, any sanctions shall be imposed by the
2 department or the court pursuant to RCW 9.94A.660.

3 (2) If the offender was sentenced under the special (~~sexual~~
4 ~~{sex}~~) sex offender sentencing alternative, any sanctions shall be
5 imposed by the department or the court pursuant to RCW 9.94A.670.

6 (3) If the offender was sentenced under the parenting sentencing
7 alternative, any sanctions shall be imposed by the department or by the
8 court pursuant to section 2 of this act.

9 (4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any
10 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

11 (~~(4)~~) (5) In any other case, if the offender is being supervised
12 by the department, any sanctions shall be imposed by the department
13 pursuant to RCW 9.94A.737. If a probationer is being supervised by the
14 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon
15 receipt of a violation hearing report from the department, the court
16 retains any authority that those statutes provide to respond to a
17 probationer's violation of conditions.

18 (~~(5)~~) (6) If the offender is not being supervised by the
19 department, any sanctions shall be imposed by the court pursuant to RCW
20 9.94A.6333.

21 **Sec. 12.** RCW 9.94A.633 and 2009 c 375 s 12 are each amended to
22 read as follows:

23 (1)(a) An offender who violates any condition or requirement of a
24 sentence may be sanctioned with up to sixty days' confinement for each
25 violation.

26 (b) In lieu of confinement, an offender may be sanctioned with work
27 release, home detention with electronic monitoring, work crew,
28 community restitution, inpatient treatment, daily reporting, curfew,
29 educational or counseling sessions, supervision enhanced through
30 electronic monitoring, or any other sanctions available in the
31 community.

32 (2) If an offender was under community custody pursuant to one of
33 the following statutes, the offender may be sanctioned as follows:

34 (a) If the offender was transferred to community custody in lieu of
35 earned early release in accordance with RCW 9.94A.728(2), the offender
36 may be transferred to a more restrictive confinement status to serve up

1 to the remaining portion of the sentence, less credit for any period
2 actually spent in community custody or in detention awaiting
3 disposition of an alleged violation.

4 (b) If the offender was sentenced under the drug offender
5 sentencing alternative set out in RCW 9.94A.660, the offender may be
6 sanctioned in accordance with that section.

7 (c) If the offender was sentenced under the parenting sentencing
8 alternative set out in section 2 of this act, the offender may be
9 sanctioned in accordance with that section.

10 (d) If the offender was sentenced under the special (~~sexual~~
11 ~~{sex}~~) sex offender sentencing alternative set out in RCW 9.94A.670,
12 the suspended sentence may be revoked and the offender committed to
13 serve the original sentence of confinement.

14 (~~(d)~~) (e) If the offender was sentenced to a work ethic camp
15 pursuant to RCW 9.94A.690, the offender may be reclassified to serve
16 the unexpired term of his or her sentence in total confinement.

17 (~~(e)~~) (f) If a sex offender was sentenced pursuant to RCW
18 9.94A.507, the offender may be transferred to a more restrictive
19 confinement status to serve up to the remaining portion of the
20 sentence, less credit for any period actually spent in community
21 custody or in detention awaiting disposition of an alleged violation.

22 (3) If a probationer is being supervised by the department pursuant
23 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
24 sanctioned pursuant to subsection (1) of this section. The department
25 shall have authority to issue a warrant for the arrest of an offender
26 who violates a condition of community custody, as provided in RCW
27 9.94A.716. Any sanctions shall be imposed by the department pursuant
28 to RCW 9.94A.737. The department shall provide a copy of the violation
29 hearing report to the sentencing court in a timely manner. Nothing in
30 this subsection is intended to limit the power of the sentencing court
31 to respond to a probationer's violation of conditions.

32 NEW SECTION. **Sec. 13.** The department of corrections in
33 coordination with the department of social and health services and the
34 administrator for the courts shall, within available resources,
35 identify the offenders and the children of offenders who participate in
36 the parenting sentencing alternative and the parenting program and
37 track recidivism, involvement in the juvenile justice system, and the

1 utilization of services including, but not limited to, foster care
2 placement, dependency actions, and mental health and substance abuse
3 counseling. The department of corrections shall make a preliminary
4 report to the legislature by November 1, 2012, and shall make a final
5 report no later than November 1, 2014."

6 Correct the title.

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